

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

MARY BLOODSWORTH and )  
JERRY BLOODSWORTH, )  
                          )  
**Plaintiffs,**           )  
                          )  
v.                        )                           **CASE NO. 2:05cv622-D**  
                          )  
                          )  
**SMITH & NEPHEW, INC.** )  
et al.,                 )  
                          )  
                          )  
**Defendants.**           )

**MOTION TO STRIKE**

Defendant Smith & Nephew, Inc. (Smith & Nephew) moves the Court to strike portions of the affidavits of Mary & Jerry Bloodsworth ("the Bloodsworths") filed in support of the Bloodsworths' Motion to Remand on the grounds that they are based on inadmissible hearsay. In support of this Motion, Smith & Nephew states as follows:

1. Paragraphs 3 and 5 of Mary Bloodsworth's affidavit and paragraph 3 of Jerry Bloodsworth's affidavit contain inadmissible hearsay. *Fed. R. Evid. 801 & 802.*

2. Each of these paragraphs recites nothing more than statements allegedly made by Dr. Hodurski and/or his office personnel.

3. Because these paragraphs contain inadmissible hearsay they are due to be stricken.

*See, e.g., Stoudemire v. Provident Life and Accident Ins. Co., 24 F. Supp. 2d 1252, 1257 n.3 (M.D. Ala. 1998)* (granting defendant's motion to strike plaintiff's affidavit submitted in support of motion to remand as inadmissible hearsay).

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**OF COUNSEL**

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the above and foregoing with the Clerk of the Court on August 15, 2005, using the CM/ECF system, which will send notification of such filing to the following:

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